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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Exhibit A

**MARY L. NEWMAN
2108 PERSHING AVE.
WEST PORTSMOUTH, OH 45663
Plaintiff**

Case: 2:06-cv-10780
Assigned To : Taylor, Anna Diggs
Referral Judge: Capel, Wallace
Assign. Date : 02/22/2006 @ 9:21 a.m.
Description: cmp mary newman v.
asset acceptance llc (tam)

vs.

**ASSET ACCEPTANCE LLC
C/O THE CORPORATION COMPANY ::
STAT AGENT FOR SERVICE
30600 TELEGRAPH RD. ::
BINGHAM FARMS, MI 48025
Defendant**

**STEVEN C. SHANE (0041124 OHIO SUPREME COURT)
ATTORNEY FOR PLAINTIFF
321 FAIRFIELD AVE.
P.O BOX 73067
BELLEVUE, KY. 41073
(859) 431-7800, (859) 431-3100 FACSIMILE
shanelaw@fuse.net**

**COMPLAINT ALLEGING VIOLATION OF THE FAIR DEBT COLLECTION
PRACTICES ACT & OHIO CONSUMER SALES PRACTICES ACT ; ATTORNEY
FEES & JURY DEMAND**

INTRODUCTION

This is a claim for statutory damages caused by Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et seq.*, and the Ohio Consumer Sales

Practices Act (“OCSPA”), Ohio Rev. Code §§ 1345.01 *et seq.*, both of which prohibit a debt collector from engaging in deceptive, unfair and/or unconscionable debt collection practices.

The conduct complained of consists of improper and unlawful communication with a party represented by counsel in connection with the collection of a debt when the defendant knew or had reason to know that the party contacted was represented by counsel.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337. Jurisdiction over the state claims is proper pursuant to 28 U.S.C. § 1367. Venue is proper in this district because the defendant resides in this district.

PARTIES

2. Plaintiff (hereinafter “Newman”) is a resident of Scioto County, Ohio, and a consumer as defined at 15 U.S.C. § 1692a(3), and may have been obligated to pay a debt which, if incurred, was primarily for household, family and personal purposes.

3. Defendant, **Asset Acceptance Corp.**, [hereinafter “**AAC**” or “**defendant**”] is a Delaware corporation with a principal residence in Macomb County in the state of Michigan which specializes in the collection of distressed consumer debt consisting of defaulted and delinquent obligations or accounts which it purchases from original creditors at a discount and, therefore, is a “**debt collector**”, as defined in the Act at 15 U.S.C. §1692a(6).

4. Defendant regularly engages in and transacts business in the state of Ohio and other jurisdictions through the use of the United States mails, telephone or other instrumentality of interstate commerce and is subject to the jurisdiction of this Court.

FACTUAL ALLEGATIONS

5. Defendant filed a collection action as the alleged assignee of a debt purchased from Household Bank against the plaintiff on October 17, 2005 in the Portsmouth Municipal Court in Scioto County, Ohio which was assigned case number CVF0501817 [hereinafter the "suit"].

6. Plaintiff's counsel filed a motion for more definite statement in the suit which motion was mailed to defendant's counsel, Kimberly Klemenok, on December 5, 2005.

7. Defendant's counsel, Kimberly Klemenok, mailed her opposition to plaintiff's motion directly to the plaintiff in this case although she was fully aware on that date that plaintiff was represented by counsel in the suit along with the identity of that counsel [see attached plaintiff's exhibit "A" certificate of service].

CLAIM I: FDCPA

8. Based upon the facts set forth above, Defendant violated the FDCPA by unlawfully communicating with an individual it knew or had reason to know was represented by counsel in violation of 15 U.S.C. §1692c.(a)(2) in connection with the collection of a debt.

9. Defendant's conduct further violated 15 U.S.C. §1692e(10) in that it constituted a deceptive means to collect a debt.

CLAIM TWO: OCSPA

10. Ms. Newman is a “consumer” as defined at Ohio Rev. Code § 1345.01(D).

11. Defendant is a “supplier” as defined at Ohio Rev. Code § 1345.01(C).

12. Defendant’s conduct as described above constituted an unfair and/or deceptive and therefore a knowing violation of the prohibitions contained in Ohio Rev. Code § 1345.02(A). It was also an unconscionable act or practice and, therefore constituted, a knowing violation of the prohibitions contained in Ohio Rev. Code § 1345.03(A).

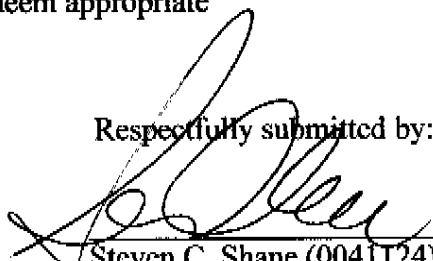
PRAYER FOR RELIEF

Plaintiff prays for the following relief:

- a. Statutory damages on both claims;
- b. A declaration that Defendant’s conduct violates the OCSPA, and an injunction permanently restraining Defendant from engaging in the conduct described herein within the state of Ohio and prohibiting Defendant from engaging in the collection of debts within the state of Ohio until they consent to a judgment wherein they formally acknowledge the unlawfulness of their conduct and agree to refrain from such conduct in the future;
- c. Costs and a reasonable attorney fee as provided by the statutes set forth above;

d. All other relief this Court may deem appropriate

Respectfully submitted by:

A handwritten signature in black ink, appearing to read 'S. Shane', is written over a horizontal line.

Steven C. Shane (0041124)
Trial Attorney for Plaintiff
321 Fairfield Ave.
P.O. Box 73067
Bellevue, Ky. 41073
(859) 431-7800
(859) 431-3100 facsimile
shanelaw@fuse.net

CERTIFICATE OF SERVICE

A copy of the foregoing Response to Defendant's Motion for More Definite Statement was mailed this 16th day of January, 2006, by regular U.S. Mail, postage prepaid, to Mary L. Newman, Defendant, at 2108 Pershing Avenue, West Portsmouth, Ohio 45663.



KIMBERLY A. KLEMENOK, #0069046

ERIC T. KOHUT, #0074947

Attorneys for Plaintiff



JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MARY NEWMAN

(b) County of Residence of First Listed Plaintiff SCIOTO CTY, OH
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Steven C. Shane, 321 Fairfield Ave., P.O. Box 73067, Bellevue, Ky.
41073 (859) 431-7800 (859) 431-3100 facsimile

DEFENDANTS

ASSET ACCEPTANCE, LLC

County of Residence of First Listed Defendant MACOMB
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Incl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HRA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692

Brief description of cause:

ABUSIVE, UNFAIR & DECEPTIVE DEBT COLLECTION PRACTICES**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/17/2006

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☐ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☐ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
